

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Richard O. Parker,**

Petitioner-Appellant,

**v.**

**Story County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-85-0030  
Parcel No. 11-34-100-215**

On January 27, 2010, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Richard O. Parker, requested a hearing and submitted evidence in support of his petition. He is self-represented. The Story County Board of Review designated County Attorney Stephen H. Holmes as its legal representative. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Richard Parker is the owner of a residentially classified property located at 65235 Indian Creek Trail, Nevada, Iowa. The property consists of a 7.31 acre site improved with a one-and-a-half story home. The improvements were built in 1993 and contain 3122 square feet of gross living area (GLA) above grade, a full basement with 1459 square feet of finish, a three car garage, and multiple decks and porch areas. The property has a January 1, 2009, assessment of \$465,300 representing \$77,800 in the land value and \$387,500 in the improvement value.

Parker appealed to the Story County Board of Review regarding the 2009 assessment for this parcel. The appeal was based on the following grounds: 1) The assessment is not equitable as compared with assessments of other like property in the taxing district under Iowa Code section

441.37(1)(a); 2) The property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), stating that the property had a total value \$367,000 representing \$57,000 in land value and \$310,000 in improvement value; 3) There is an error in the assessment under section 441.37(1)(d); and 4) There has been a change downward in the value since the last assessment under Iowa Code sections 441.35(3) and 441.37(1). The Board of Review denied the protest.

Parker then appealed to this Board reasserting his original claims. We note the ground of downward change, in an assessment year, is akin to over-assessed and will be considered as part of that ground.

Parker testified that he is a practicing attorney with thirty-five years experience, primarily dealing with real estate, probate and trust matters. Based upon his profession and focus, he asserts that he is familiar with real estate values and activities, particularly on "main street" Nevada, Iowa.

Parker submitted five properties to the Board of Review, which he considered as equity comparables. Property record cards for each of these were included in the certified record. No additional evidence was submitted by Parker.

Parker fails to provide analysis of the fair market value of these properties. By failing to demonstrate the fair market value of the properties, he is unable to demonstrate that there is a difference in the assessed value to fair market value ratio. Parker does not assert that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties.

The Board of Review offered three properties for comparison which it asserts are more comparable to the subject property than those offered by Parker. The Board of review compares the net dwelling value of the properties, which range from \$112.50 to \$116.14, and averaging \$113.72. The subject has a current net dwelling assessed value of \$111.53 which is less than the average and below the range of properties considered to be comparable.

Based upon the foregoing, the Appeal Board finds insufficient evidence in the record to support a claim that the subject property is inequitably assessed.

Parker also asserts that his property is assessed for more than authorized by law and that his property has a total value of \$367,000. Parker points to the five properties he offered as equity comparables to support this claim. But none of these properties sold recently prior to January 1, 2009. Even considering the assessed values of these properties, he does not provide any adjustments to them in comparison to the subject.

The Board of Review, with Parker's permission, completed an interior appraisal of the subject property with an inspection August 2009, and reflecting a value opinion effective January 1, 2009. The appraisal was completed by Norman (Mike) Swaim. He developed only the sales comparison and cost approach. He did not develop the income approach. His cost analysis conclusions indicate a value of \$486,900; and his sales analysis and final opinion of value was \$470,000. Swaim was not present at hearing.

Parker disagreed with a comment in Swaim's report which stated, "values have been increasing." Swaim did not expound on this opinion. We agree with Parker's concern in regards to this statement. However, the properties supplied for comparison are all recent sales, within six months of the effective date, and demonstrate the most credible piece of evidence before this Board.

Swaim explained the selection process for the comparables and supported his opinions in a summary format. The unadjusted sales prices of the properties, presented by Swaim, range from \$425,000 to \$511,500, with median of \$462,800. After adjustments, the sales range from \$465,300 to \$516,500, with a median of \$470,500.

Brent Balduf, Story County Deputy Assessor, testified in regards to his familiarity with the subject property and the assessment. Balduf indicated that the subject property is situated on a desirable site which would not directly compete with properties located on typical "in-town" sites. It



is Balduf's belief that the Swaim appraisal accurately considers competing properties. The Board of Review also supplied three properties for comparison, (Exhibit "I") however none were sales. Balduf points out that the properties outlined in Exhibit "I" offer similar gross living area; similar grade, classifications, and are acreage properties with similar appeal. Additionally, he asserts the three properties submitted by the Board of Review demonstrate the subject is neither inequitably assessed nor over-assessed.

Swaim's appraisal is the only evidence presented regarding the market value of the subject property. Because it is the sole piece of evidence presented, regarding the ground of more than authorized by law, it is considered the most reliable.

Based upon the foregoing, the Appeal Board finds there is insufficient evidence to support a claim that the subject property is assessed at greater than market value.

Finally, Parker also asserts that there is an error in the assessment, specifically he had concerns with understated and incorrect application of obsolescence; errors on map and grade factors; and failure to reflect fair market value. Essentially, the bulk of Parkers asserted errors is based upon a presumption that the property is over-assessed; a claim which has already been addressed. Parker did not address his concerns to this Board regarding the errors he asserts on map and grade factors.

Parker points to the certified record and data he supplied to the Board of Review regarding the Nevada market in 2009. He supplied a report created by Hunziker and Associates, which he claims demonstrates a declining market and evidence of properties selling for less than their assessed value. He also points out that in the first quarter of 2009, according to the study 64% of the sales occurring in the Nevada area sold for less than assessed value. When asked how many of those properties sold for less than assessed value may have been the result of foreclosure or other non arm's length transactions, he was unable to answer.

No evidence was presented by the Board of Review in regards to the claim of error.

Based upon the foregoing, the Appeal Board finds that insufficient evidence has been submitted to establish there is an error in the assessment.

In the opinion of the Appeal Board, Parker did not show what the correct value should be, and the evidence does not support the claims brought before this Board.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).



To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Parker did not assert that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. While Parker does assert the properties are inequitably assessed, he fails to provide evidence to complete the Maxwell test.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Parker did not provide this Board with evidence that the current assessed valuation is more than authorized by law by failing to provide substantial evidence of its fair market value.

Section 441.37(1)(d) allows a protest on the ground “[t]hat there is an error in the assessment.” The administrative rule interpreting this section indicates that the error may be more than clerical or mathematical. Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). Parker failed to provide evidence to support his claim of error.

In the opinion of the Appeal Board, Parker did not show what the value of the property should; and the evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 65235 Indian Creek Trail, Nevada, Iowa, as determined by the Story County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Richard O. Parkers property, located at 65235 Indian Creek Trail, Nevada, Iowa, as of January 1, 2009, set by the Story County Board of Review, is affirmed.

Dated this 1<sup>st</sup> day of March, 2010

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-1</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	